



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,563	01/26/2004	Darren Ronald Boisjolie	69448-00020USPT	4037
61060	7590	04/29/2008	EXAMINER	
WINSTEAD PC			DANG, THANH HA T	
P.O. BOX 50784			ART UNIT	
DALLAS, TX 75201			PAPER NUMBER	
			2163	
			MAIL DATE	
			DELIVERY MODE	
			04/29/2008	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/766,563	Applicant(s) BOISJOLIE ET AL.	
	Examiner Thanh-Ha Dang	Art Unit 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8 and 10-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 14-28 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/08/08; 12/07/07; 10/01/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 8 and 10-28 are pending in this Office Action.
2. Applicant cancelled Claims 1-7 and 9.
3. Elected Claims 8 and 10-13 are rejected in this Office Action.

Continued Examination Under 37 CFR 1.114

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/04/07 has been entered.

Response to Amendment

5. Receipt of Applicant's Amendment filed on 12/04/07 is acknowledged.

Election/Restrictions

6. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 8 and 10-13, drawn to method for content rating and content filtering, classified in 707, subclass 7.

II. Claims 14-18, drawn to digital processing system configuration, classified in 713, subclass 1.

III. Claims 19-22, drawn to virus definition in internet protection, classified in 713, subclass 188.

IV. Claims 23-28, drawn to network resources access controlling, classified in class 709, subclass 229.

The inventions are distinct, each from the other because of the following reasons:

- Inventions I, II, III and IV are related as subcombinations disclosed as usable together in a single combination.
- The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as method for content rating and content filtering. Invention II has separate utility such as digital processing system configuration. Invention III has separate utility such as virus definition in internet protection. Invention IV has separate utility such as network resources access controlling. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Jeffrey A. Tinker (RN 58,807) on 4/18/08 a provisional election was made without traverse to prosecute the invention of Group I, claims 8 and 10-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-28 are withdrawn

from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Remarks

7. Newly submitted claims 14-28 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- the newly claims 14-18 are directed to digital processing system configuration,
 - the newly claims 19-22 are directed to virus definition in internet protection, and
 - the newly claims 23-28 are directed to network resources access controlling,
- whereas the original claim 8 is directed to method for content rating and content filtering. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-28 are

withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 recites on line 4 that a primary server is selected based on a server with the quickest response time; then, on line 5 that the server on which the server application is resident has been selected as a primary server. The claimed limitations fail to distinctly point out the selection and condition of being a primary server.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that

the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No. US2002/0103914 issued to Dutta et al. ("Dutta"), and further in view of US Patent No. 6,189,008 issued to Easty et al. ("Easty").

As to **Claim 8**, *Dutta teaches* a method of monitoring the appropriateness of digital content received at a plurality of monitored computers over a computer network, each of the plurality of monitored computers under the control of a monitored user, the method comprising:

- providing a client application comprising data processing executable instructions, resident on each of said monitored computers (*Figures 1A-B, page 1 [0017]*);
- providing, in the client application, modules for performing content rating and content filtering (*Figure 4, page 3 [0033]*);
- providing a server application comprising data processing executable instructions resident on a server remotely located from the plurality of monitored computers (*Figures 1A-B, 2, and 4-5, page 1 [0017]*);

- providing at least one communication application in the client application (*page 2 [0018, wherein TCP/IP suite of protocols to communicate with one another read on communication application limitation]*);
- providing at least one communication application in the server application (*page 2 [0018, wherein TCP/IP suite of protocols to communicate with one another read on communication application limitation]*);
- (h) for said plurality of monitored computers, utilizing said client application and said server in combination in order to generate an approval or disapproval indication for the digital content in real time as the monitored user accesses the digital content (*Figure 7, page 7 [0148-0150]*); and
- utilizing the client application for blocking or permitting further communication in a predetermined manner in at least partial dependence on the approval or disapproval indication (*Figure 6 wherein block630,640,660 read on generate an approval or disapproval indication limitation, page 6 [0139-0140]*).
- *Dutta does not explicitly teach* for the .plurality of monitored computers, utilizing said client application to capture in real time all requests for data as the monitored user accesses digital content; and for the .plurality of monitored computers, utilizing the at least one communication application of the client application to automatically pass information related to the captured requests for data from the client application to the server in real time as the monitored user accesses the digital content. However,

Easty teaches for the .plurality of monitored computers, utilizing said client application to capture in real time all requests for data as the monitored user accesses digital content (*Figures 3A-C and 4A-C, column 6, lines 54-56*); for the .plurality of monitored computers, utilizing the at least one communication application of the client application to automatically pass information related to the captured requests for data from the client application to the server in real time as the monitored user accesses the digital content (*Figures 3A-C and 4A-C, column 7, lines 2-5*). Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine distributing digital content to a plurality of endpoint servers teaching of Easty with method for filtering content based on accessibility to a user teaching of Dutta to provide method and system which manage digital assets of the endpoint servers based on aggregate profile information reflecting the preferences of the users (*Easty, column 1 lines 8-10*).

As to **Claim 11**, *Dutta in combination with Easty teaches* further comprising:

- storing configuration settings on at least one backend server (*Easty, column 3, lines 6-9 wherein the aggregate profile stored at the endpoint server read on the claimed limitation*);
- wherein the configuration settings relate to user-entered preferences (*Easty, column 4, line 20*);

- sending the configuration settings from the at least one backend server to the client application (*Easty, Figure 1, block13/16, column 4, lines 15-24*); and
- configuring the client application based in at least partial dependence on the configuration settings (*Easty, column x, lines*).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No. US2002/0103914 issued to Dutta et al. ("Dutta"), and further in view of US Patent No. 6,189,008 issued to Easty et al. ("Easty") as applied to claim 8 above, and further in view of Pub. No. US2003/0149755 issued to Emek Sadot ("Sadot").

As to **Claim 10**:

Dutta in combination with Easty teaches all the elements of Claim 8 as stated above.

Dutta in combination with Easty does not explicitly teaches further comprising: sending a signal from the client application to a plurality of servers to determine which server of the plurality of servers has the quickest response rate; selecting a server with the quickest response rate as a primary server; and wherein the server on which the server application is resident has been selected as a primary server.

Sadot teaches further comprising:

- sending a signal from the client application to a plurality of servers to determine which server of the plurality of servers has the quickest response rate (*page 5 [0053]*);
- selecting a server with the quickest response rate as a primary server (*Figure 2 block206, page 5 [0053]*); and
- wherein the server on which the server application is resident has been selected as a primary server (*page 5 [0053]*). Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine client-controlled load balancer teaching of Sadot with distributing digital content to a plurality of endpoint servers teaching of Easty and method for filtering content based on accessibility to a user teaching of Dutta to provide method and system which implement load balancer to determine how a server is to be selected to obtain fastest response rate (Sadot, page 1 [0007]).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No. US2002/0103914 issued to Dutta et al. ("Dutta"), and further in view of US Patent No. 6,189,008 issued to Easty et al. ("Easty") as applied to claim 8 above, and further in view of US Patent No. 6,947,985 issued to Hegli et al. ("Hegli").

As to **Claim 12**:

Dutta in combination with Easty teaches all the elements of Claim 8 as stated above.

Dutta in combination with Easty does not explicitly teaches further comprising: for the plurality of monitored computers, receiving digital content from the network in response to the requests for data; and utilizing the client application for delaying delivery of the digital content until the approval or disapproval indication has been generated.

Hegli teaches further comprising:

- for the plurality of monitored computers, receiving digital content from the network in response to the requests for data (*Figure 1, wherein block12a-c receive digital content from the network15/20, column 3, lines 4-8*); and
- utilizing the client application for delaying delivery of the digital content until the approval or disapproval indication has been generated (*column 6, lines 4-11*). Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine filtering techniques for managing access to internet site or other software applications teaching of Hegli with distributing digital content to a plurality of endpoint servers teaching of Easty and method for filtering content based on accessibility to a user teaching of Dutta to provide method and system which control user access to categories of Internet sites between a local area network and a wide area network (Hegli, column 1 lines 61-63).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No. US2002/0103914 issued to Dutta et al. ("Dutta"), and further in view of US Patent No. 6,189,008 issued to Easty et al. ("Easty") as applied to claim 8 above, and further in view of Pub. No. US2003/0084184 issued to Eggleston et al. ("Eggleston").

As to Claim 13:

Dutta in combination with Easty teaches all the elements of Claim 8 as stated above.

Dutta in combination with Easty does not explicitly teaches further comprising. sending updates from the server application to the client application at predetermined intervals; and configuring the client application based in at least partial dependence on the updates.

Eggleston teaches further comprising:

- sending updates from the server application to the client application at predetermined intervals (*page 4 [0033]*); and
- configuring the client application based in at least partial dependence on the updates (*page 4 [0033]*). Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine method for rate governing communications teaching of Eggleston with distributing digital content to a plurality of endpoint servers teaching of Easty and method for filtering content based on accessibility to a user teaching of Dutta to provide

Art Unit: 2163

method and system which improved transferring data in communications system (Eggleston, [0002]).

Response to Arguments

10. Applicant's arguments with respect to claims 8 and 10-13 have been considered but are moot in view of the new ground(s) of rejection.

Citation of Pertinent Prior Art

11. The prior art made of record and not relied upon in Form PTO-892 if any is considered pertinent to applicant's disclosure.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh-Ha Dang whose telephone number is (571)272-4033. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2163

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thanh-Ha Dang
Examiner, AU 2163
April 22, 2008

/don wong/
Supervisory Patent Examiner, Art Unit 2163